

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES – GENERAL

Case No. LA CV15-07447 JAK (RAOx)
 Title Hernan Rodriguez v. HMS Host

Date November 16, 2015

Present: The Honorable JOHN A. KRONSTADT, UNITED STATES DISTRICT JUDGE

Andrea Keifer

Not Reported

Deputy Clerk

Court Reporter / Recorder

Attorneys Present for Plaintiffs:

Not Present

Attorneys Present for Defendants:

Not Present

Proceedings: **(IN CHAMBERS) ORDER RE DEFENDANT'S NOTICE OF WITHDRAWAL
OF REMOVAL(S) (Dkt. 16) AND REMANDING CASE TO THE LOS
ANGELES SUPERIOR COURT JS-6**

Hernan Rodriguez (“Plaintiff”) brought this action in the Los Angeles Superior Court on August 28, 2015. Dkt. 1 (Exh. A (Case No. BC 592775)). His claims arise out of an alleged breach of contract. Defendant removed the action on September 24, 2015 pursuant to 28 U.S.C. §§ 1331, 1441, 1446. Defendant asserted that there was federal jurisdiction because Plaintiff’s claims could reasonably be interpreted as asserting a breach of a collective bargaining agreement (“CBA”).

On November 10, 2015, Defendant sought to withdraw its notice of removal (“Notice”), stating that since the time of removal it, “learned that during the relevant time period which is likely directly relevant to [the action], Plaintiff was an exempt ‘Assistant Manager I’ and hence, not bound by the relevant Collective Bargaining Agreement . . .” Dkt. 16. For this reason, Defendant concedes that the basis for the removal was incorrect, and that there is no federal jurisdiction over this action. Plaintiff has not opposed the Notice.

Because the party with the burden of proof as to the issue now concedes that there is no federal jurisdiction, this matter is **REMANDED** to the Los Angeles Superior Court at its Stanley Mosk Courthouse, Case No. BC592775.

IT IS SO ORDERED.

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